



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
OFFICE OF SMART GROWTH
PO Box 204
TRENTON NJ 08625-0204

JON S. CORZINE
Governor

SUSAN BASS LEVIN
Commissioner

CHRISTIANA FOGLIO
Chair

EILEEN SWAN
Executive Director & Secretary

**Minutes of the Meeting Held March 15, 2006
Thomas Edison College Prudence Hall
101 West State Street Trenton, New Jersey**

CALL TO ORDER

Christiana Foglio, Chair called the March 15, 2006 meeting of the New Jersey State Planning Commission to order at 9:55 a.m.

OPEN PUBLIC MEETINGS ACT

Daniel P. Reynolds, Deputy Attorney General announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

ROLL CALL

Members Present

Bernard McLaughlin, Designee for State Treasurer, Bradley Abelow, Department of Treasury
Kenneth Albert, Public Member
Michele Byers, Public Member
John Eskilson, Public Member
Adam Zellner, Designee for Commissioner Lisa Jackson, Department of Environmental Protection
Brent Barnes, Designee for Commissioner Kris Kolluri, Department of Transportation
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Marilyn Lennon, Public Member
Debbie Mans, Smart Growth Ombudsman
Lauren Moore, Manager, Office of Business Advocate & Information, Commerce &
Economic Growth Commission
George Pruitt, Public Member
Christiana Foglio, Chair and Public Member

Not Present



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Susan Bass Levin, Commissioner, Department of Community Affairs
Edward McKenna, Jr., Public Member
Thomas Michnewicz, Public Member

Others Present (See Attachment A)

PLEDGE OF ALLEGIANCE

Chair Foglio asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF MINUTES

Chair Foglio asked for a motion to approve the minutes of the December 7, 2005 meeting. George Pruitt made the motion and Brent Barnes seconded the motion. Chair Foglio asked for a roll call vote.

Ayes (8): Michele Byers, John Eskilson, Adam Zellner, Brent Barnes, Monique Purcell, Marilyn Lennon, George Pruitt and Chris Foglio. Nays (0). Abstains (4): Bernard McLaughlin, Kenneth Albert, Debbie Mans and Lauren Moore. Due to the lack of a quorum the minutes were not approved. Chair Foglio indicated that the minutes for both the December 7, 2005 meeting and the January 18, 2006 meeting would be presented again at end of the meeting when additional members would be present to vote. Since no additional members appeared by the end of the meeting, it was decided that approval of minutes would be carried to the April 19, 2006 commission meeting.

CHAIR'S COMMENTS, Christiana Foglio, Chair

Chair Foglio thanked Maura McManimon for her leadership as former Executive Director to the Office of Smart Growth. She then welcomed the new Executive Director Eileen Swan.

ELECTION OF VICE-CHAIR

Chair Foglio asked for a nomination for the Vice-chair position. Marilyn Lennon nominated Michele Byers and John Eskilson seconded the nomination. Chair Foglio asked for a roll call vote. Ayes (11): Bernard McLaughlin, Kenneth Albert, John Eskilson, Adam Zellner, Brent Barnes, Monique Purcell, Marilyn Lennon, Debbie Mans, Lauren Moore, George Pruitt and Chris Foglio. Nays (0). Abstains (0).



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EXECUTIVE DIRECTOR REPORT, Eileen Swan, Executive Director

Eileen Swan gave a brief history of her background and thanked the staff at OSG for their support and talents. Ms. Swan reported that cross-acceptance is not 'dead' and that the Office is working with DEP on issues to reach an agreement on moving the process forward. She explained that the Office is not ready to release a revised scheduled.

Ms. Swan asked Tracie Gelbstein to give an update on the proposed education rules for the basic education of planning and zoning board members. Ms. Gelbstein explained that the public comment period for the proposed rule expired on March 4 and that the Office is in the process of preparing a response document to those comments. OSG hopes to have a rule proposed for adoption in May or June 2006.

Ms. Gelbstein also updated the Commission on an Appellate Court decision that was handed down with regard to four Sussex County designated centers. In short, the decision was in favor of the State Planning Commission noting that the Commission was given deference for their expertise in implementing the State Plan. The decision confirmed that the State Plan is not a regulatory document. The Commission appropriately worked within the guidelines set forth in the State Plan when designating the centers. Criteria for designations are flexibly applied depending on local conditions of individual towns. There was a brief discussion with DAG Dan Reynolds on the significance of the ruling for the State Planning Commission when taking future action on plan endorsement petitions.

Next, Ms. Swan asked Danielle Stevens to provide an update on Plan Endorsement. Ms. Stevens reported that currently there are 16 active Plan Endorsement petitions, 10 of which have been deemed complete. She gave a brief review of the process. She further explained that eight towns seeking plan endorsement pursuant to DEP's Coastal Zone rule have been deemed complete: Egg Harbor Twp. (Atlantic Co.), Lower Township, Middle Township and Upper Township (Cape May Co.), Barnegat Township, Brick Township, Dover Township and Lakewood Township (Ocean Co.). Under DEP's rules, CAFRA coastal centers in the towns with completed petitions are temporarily reestablished until March 15, 2007 or until the Commission endorses a new center, whichever happens first. Three towns filing petitions pursuant to the DEP Coastal Zone Rule were deemed incomplete: Galloway Township, Dennis Township and Lacey Township, and thus were unable to reestablish their CAFRA coastal centers. Stafford Township in Ocean County was also deemed incomplete, but was not



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seeking to reestablish expired coastal centers. Danielle noted that the Office is working with all of the towns to make sure they are moving through the process in order to receive Plan Endorsement and designate new CAFRA centers.

Ms. Stevens reported that the Office of Smart Growth held a public hearing on the Middle Township petition in Cape May County on March 8. The Office received testimony from the public which will be considered as OSG prepares their recommendations to the Commission.

Lastly, Ms. Stevens reported that there are two regional petitions, not within the CAFRA zone, that are currently under review: Western Monmouth Regional Plan and the Sussex County Regional Plan and completeness determinations would be made shortly. Two additional petitions that have been deemed complete and are in the consistency review period include: Strategic Planning Area Group for Middlesex County and the West Amwell, Hunterdon Co., petition. She also announced that in the next week a pre-petition meeting was going to be held with Washington Township, Warren County.

INTRODUCTION OF POLICY DIRECTIVE

Ms. Swan announced that she was going to be asking the Commission to take action on a proposed policy directive to guide the staff when reviewing petitions for plan endorsement from towns within the CAFRA region. In the interest of transparency and review by the public, Ms. Swan asked that the Commission take action on the directive at the next meeting. Ms. Swan explained that the Office of Smart Growth has deemed eight CAFRA towns complete and are now on a tight timeline to work with them on consistency issues. However, there is not a sufficient amount of time to get the towns where they should be for a determination of consistency. The purpose of the policy directive is to give staff and the municipalities an extension of time to review and supplement the completed petitions received from the CAFRA towns. The period for review would be extended six months (See attachment B). The towns don't have to accept the six month extension, and can choose to work under the existing rules. If, however, they see the directive as an opportunity for OSG to assist them to do good planning and to reach a point where DEP will feel comfortable in giving the final CAFRA designation, then they will be given the opportunity to enter into an MOU and action plan to reach consistency over the next 6 months. MOUs would be posted on the OSG website as would model planning documents. There would be a timeline established with each town to assist them in meeting critical deadlines. If a deadline was not met the town would then be measured for



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consistency under the rules and receive no further time extension. There was a brief discussion among the Commission members regarding how the policy directive would affect towns that did not agree to the extension, when development approvals/permits would be approved, how towns are going to meet affordable housing obligations, and that the directive was an important first step to good planning.

Committee Reports

Plan Implementation Committee, John Eskilson, Chair

John Eskilson reported that at the next meeting he would like to discuss the issue of regional plans as they relate to plan endorsement, the Highlands Plan and our relationship to the group, and a memorandum of understanding that establishes the official relationship between the SPC and its jurisdiction within the Highlands Planning Area, Highlands Council and the plan. He noted that he would like these items to be regular discussion items at the PIC meetings.

Ms. Swan responded that the Office of Smart Growth staff is working with the Highlands Council staff with regards to preparing an MOU and the Office will be meeting with them in the next few weeks.

She also noted that February 15th ended the second round of Smart Growth Grants and that the staff is currently reviewing those applications.

Chair Foglio asked if the new Commission members had been assigned to a subcommittee. Ms. Swan reviewed the list of committee membership and Debbie Mans was added to the Plan Implementation Committee.

PUBLIC COMMENTS

Chris Sturm of New Jersey Future commented that the policy directive proposal for the coastal centers is very interesting and will address this train wreck that could happen. She noted that it looks to her that a lot of the petitions may not be found consistent and that the CAFRA center ultimately would not be approved, which is not an outcome that anybody wants. At first glance it looks like a good thing; one concern though is that it looks like a lot planning will be done and that the petitions will be changed during the six month period in towns that agreed to go through the process. She asked that the public be involved at the local level because they are going to be responsible for implementing and carrying out the



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plans. She noted that ANJEC has raised the issue a number of times and it is a critical issue. She commended the efforts to clarify what it is the Office wants from the towns and what it is that they have to do to achieve consistency, because that has been missing from the Plan Endorsement process. She noted that New Jersey Future has convened a task force to look at the endorsement process and they were grateful to be allowed to present the recommendations at the PIC meeting in January. New Jersey Future hopes that the proposal is something that will fix a very specific problem in a specific region. When the task force looked at endorsement, they recommended that the requirements for what needs to be submitted and what will be found consistent be clarified. The task force is interested in the regional plans and specifically, how they are reviewed.

Don Kirchhoffer, New Jersey Conservation Foundation, noted that he liked the context of the meeting and that he was pleased with the way things are moving forward. He explained that he participated in the failed DEP watershed initiative that happened a few years ago. He noted he was intimately involved with Cape May County's issues with water supply and that it was obvious that the solution to the water problem there should be some sort of regional water instrument. He feels that this process going on with three towns in Cape May for endorsement is a wonderful time for the SPC to take some initiative to push for a regional plan. Don't let the towns get approved if there is not some sort of regional attention to water supply. It is a problem down there and hopes that they deal with it.

Candy Ashmun, not speaking officially for the Pinelands Commission, noted that there was a little bit of a problem with reviewing some of the petitions for the Pinelands Commission. She explained that the Pinelands has planning jurisdiction in the Pinelands National Reserve and that most of the CAFRA towns are in the National Reserve. The Pinelands also has regulatory jurisdiction on the municipalities that are inside the Pinelands area. Many of the towns are half in and half out. Unfortunately, the Pinelands does not have the staff time to participate in petition review. They currently have five staff positions on the hiring freeze. She noted that there is an old MOA between the SPC and the Pinelands and feels that it should be looked at again. Maybe OSG could also go down the hall and steal COAH's new employee, Alice Dearse, who happens to be a Pinelands expert and one of their ex-staff members. Alice could look at some of petitions and automatically know whether there are issues that we should all be aware of. She noted that it was just a thought, not an official suggestion. She further explained that the Pinelands is getting the notices, but did not know if there was a better way for the interagency review team to work better. The Pinelands doesn't have the time to send a staff person to every meeting, and



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does not want to have say to some town you can't do what the OSG has just told you could do.

COMMISSIONER REPORTS

Adam Zellner, Department of Environmental Protection

Mr. Zellner thanked everyone for the warm welcome and congratulated Ms. Swan on her new position. He noted that DEP is committed to bringing the process back together and making it transparent so that when the two offices and other state agencies work together it is in such a way that: 1) we are clear in what we are asking for; 2) we are clear as in why we are asking for it; and 3) we are clear in what it means when its complete. Those are the three things that we have really committed to focus on and there is a lot more to come. He noted that Commissioner Jackson is fully committed to looking at some of those larger planning issues including those of capacity, wastewater, potable water and how regional planning fits in.

Michele Byers, Public Member

Ms. Byers reported that it was time again for New Jersey's Annual Land Conservation Rally. She noted that it is the tenth rally and is being held at the Hyatt in New Brunswick. Former Secretary of the Interior Bruce Babbitt would be the keynote speaker. She noted that Mr. Babbitt recently wrote a book about land use planning and highlights the New Jersey Pinelands as an example of solid integrated comprehensive land use planning. She also provided the latest New Jersey Conservation Foundation newsletter which highlighted the work of Eileen Swan as a consultant to the Foundation.

Marilyn Lennon, Public Member

Ms. Lennon echoed the welcome to Eileen and noted that she feels the Commission has a lot of work in front of them and looks forward to working with the new commissioners. She also noted that the points that were made about comprehensive regional planning need to be address in a balanced way between the manmade and natural environment.

Chair Foglio asked for a motion to adjourn, the motion was moved by Brent Barnes and seconded by Michele Byers. All were in favor. The meeting was adjourned at 11:05 a.m.



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Respectfully submitted,

A handwritten signature in black ink, appearing to be "Eileen Swan".

Eileen Swan
Secretary and Executive Director

Dated: March 29, 2006



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ATTACHMENT B

**Currently Under Review &
Discussion**

DRAFT – NOT APPROVED

Policy Directive

**Plan Endorsement process for CAFRA Towns with petitions that have been
deemed complete by March 15, 2006 pursuant to the NJDEP Coastal Zone
Management Rules**

This Directive is issued by the Executive Director of the Office of Smart Growth (OSG) and submitted to the State Planning Commission (SPC) for their approval for the purpose of giving the CAFRA towns clear guidance on how to achieve Plan endorsement in an efficient manner and to provide transparency to the public on how OSG and our state agency partners will approach these petitions as we move through the process. This Office, working closely with the NJDEP, is committed to assisting towns to achieve a balance between their legitimate economic interests and the protection of their most ecologically sensitive and fragile areas inherent to the coastal region.

Background.

In adopting the Coastal Area Facility Review Act (CAFRA), the Legislature recognized that New Jersey's bays, harbors, sounds, wetlands, inlets and tidal portions of the fresh, saline and partially saline streams and tributaries and their adjoining uplands together constitute an exceptional, unique, irreplaceable and delicately balanced natural environmental resource called the coastal area. The Legislature also recognized the legitimate economic aspirations for the CAFRA towns for which development should be permitted.

Consistent with the legislative intent of CAFRA, OSG and NJDEP are working with the CAFRA towns to encourage the development of compatible land uses in the coastal area in order to improve their overall economic position within the framework of a comprehensive



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environmental design strategy. We seek the preservation of this most ecologically sensitive and fragile area from inappropriate development and strive to provide adequate safeguards for the construction of any developments in the coastal area. Otherwise, the coastal area will suffer continuing and ever-lasting adverse economic, social and aesthetic effects.

CAFRA requires that any action taken by the NJDEP to implement CAFRA must closely coordinate with the State Development and Redevelopment Plan (State Plan). In response to CAFRA and recognizing that center based development is the State Plan's preferred vehicle for accommodating growth while protecting the environs, DEP adopted the Coastal Zone Management rules for determining impervious cover limits and vegetative cover percentages for sites in the CAFRA area based on the site's location in a CAFRA center, core or node, Coastal Planning Area or coastal center with higher impervious cover allowed in a coastal or CAFRA center. The rules were intended to encourage development in areas with existing development and infrastructure, discourage sprawl development, and protect the sensitive natural resources.

The coastal centers were adopted by NJDEP as an interim measure to accommodate planned imminent development until the municipalities containing coastal centers had been given adequate opportunity to undertake the comprehensive planning analysis through the State Planning Commission's Plan Endorsement process, a prerequisite to obtaining CAFRA center status. A five-year expiration date was imposed on the boundaries of coastal centers, expiring on February 7, 2005.

Action Plan.

OSG and NJDEP recognize that many local governments have committed substantial time, money and effort to obtain plan endorsement from the State Planning Commission over the past five years. In recognition of this effort, on February 6, 2006, DEP adopted amendments to the Coastal Zone Management rules that temporarily re-establish the boundaries of certain coastal centers located on the mainland that expired on February 7, 2005.

The re-established centers are subject to conditions that mandate the continued commitment of CAFRA towns to the Plan Endorsement process and assure environmental impacts in these areas are minimized while these interim measures exist.

First, the boundaries of coastal centers located on the mainland are temporarily re-established only if those municipalities with coastal centers file a petition for initial plan endorsement with OSG and receive a determination from the Executive Director of OSG prior to March 15, 2006



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that the initial petition is deemed complete pursuant to the State Planning Rules and Plan Endorsement Guidelines.

Second, wetlands, endangered and threatened wildlife habitat, Natural Heritage Program priority sites, open space, special water resource protection areas and Coastal Critical Environmental Sites are not considered part of the re-established centers except for CAFRA permit applications received prior to February 7, 2005.

The reestablished clipped center boundaries remain effective until they expire on March 15, 2007 or until the State Planning Commission endorses a petitioner's plan, whichever occurs first.

Consistent with these rules, 11 towns with expired coastal centers have submitted petitions seeking to re-establish the coastal centers, 8 of which were deemed complete prior to the March 15, 2006 deadline. Those towns and their re-established coastal centers are:

1. Egg Harbor Township, Atlantic County
 - Egg Harbor coastal town
 - West Atlantic City coastal town
2. Lower Township, Cape May County
 - Schellenger's Landing coastal town
 - Town Bank/North Cape May coastal town
 - Villas coastal village
3. Middle Township, Cape May County
 - Cape May Court House coastal regional center
 - Del Haven coastal village
 - Goshen coastal hamlet
 - Green Creek coastal hamlet
 - Rio Grande coastal regional center
 - Sainton coastal hamlet
 - Whitesboro/Burleigh coastal village
4. Upper Township, Cape May County
 - Marmora/Beesley's Point/Palermo coastal town
 - Petersburg coastal village
 - Seaville coastal hamlet
 - Tuckahoe coastal hamlet
5. Barnegat, Ocean County



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- Barnegat coastal town
- 6. Brick Township, Ocean County
 - Brick Township coastal town
- 7. Dover Township, Ocean County
 - Toms River coastal regional center
- 8. Lakewood, Ocean County
 - Lakewood coastal regional center

OSG's review of the planning documents submitted with the petitions has raised significant concerns about the consistency of the CAFRA towns' planning documents with the goals, policies and strategies of the State Plan and State Plan Policy Map, as well as CAFRA.

In an effort to work with towns to address these significant issues and in recognition of the substantial time and money towns have expended to obtain plan endorsement, the Executive Director of OSG recommends the following approach for consideration of these completed petitions.

We propose an approach intended to provide coordination and transparency for planning the future growth for the CAFRA towns, allow for sufficient public comment throughout the process, and give CAFRA towns assurance that NJDEP will approve a coastal center that has been endorsed by the SPC.

OSG will closely coordinate its review and recommendations with NJDEP in order to meet the requirements of the State Planning Rules, the Plan Endorsement Guidelines and CAFRA.

According to the State Planning Rules, the Executive Director may request additional information after a petition is deemed complete, extending the 60-day OSG consistency review period by an additional 45 days.

Staff of OSG and NJDEP have determined that in the case of the CAFRA towns that have been deemed complete, the 45-day extension period is not sufficient to adequately address consistency issues that would allow the towns the ability to achieve plan endorsement and receive public comment while also meeting the demands of CAFRA. Therefore, the Executive Director directs OSG staff to review the petition within 45 days of the date a petition was deemed complete, and, in consultation with the other state agencies, compile a report to each CAFRA town of issues that must be addressed before this Office can recommend endorsement.



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Upon approval of this Directive by the SPC, a six month extension period will be agreed upon between OSG and each of the CAFRA towns. The six month extension will commence upon completion of the 45-day state agency review period. OSG, the CAFRA towns and the state agency partners will adopt an action plan containing a schedule to adequately address within the 6 month extension period the consistency issues raised in the state agency report. This schedule will outline the necessary planning documents, and amendments to those planning documents, specific to the needs of each town and will provide a negotiated, but firm, timeline for each deliverable in order to allow OSG and the state agency partners adequate time to review them.

Each town that wishes to take advantage of this extension in order to continue to work towards achieving endorsement before March 17, 2007 will enter into a memorandum of understanding (MOU) with OSG incorporating the concerns raised in the state agency consistency report, the action plan, and any necessary amendments to the State Planning Rules. OSG will arrange a meeting with each of the affected towns and state agency partners to adopt the action plan and execute an MOU.

NJDEP will provide maps to OSG and the CAFRA towns that identifies each of the re-established clipped coastal centers to be incorporated into the MOU.

In reviewing the impact of the clipped coastal center boundaries, CAFRA towns may agree to amend the boundaries negotiated between OSG and the state agencies. Any amendments to the center boundaries will be consistent with the policy objectives for relevant centers set forth in the State Plan and the legislative intent of CAFRA, and will be subject to public comment.

The Executive Director of OSG shall prepare a report within 60 days after the conclusion of the six month extended review period and submit the report to the State Planning Commission and the petitioner, and post the report on the OSG website. The report shall contain detailed findings and conclusions concerning the consistency of a CAFRA town's petition and proposed Planning and Implementation Agreement with the State Plan. If any of the towns fail to meet the firm timeline set forth in the MOU and action plan, OSG will prepare the report to the SPC immediately upon the default and based on the documents currently before the state agencies. In that case, the report will be due to the SPC within 60 days of a town's default.

If the Executive Director of OSG has not made a recommendation to the State Planning Commission within the 60-day time period, the petitioner has the right to request action be



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taken on the petition by the State Planning Commission within 90 days after receiving the request.

The Executive Director of the Office of Smart Growth shall, within 30 days of the Commission's determination, notify the petitioner of that determination and within 45 days provide public notice pursuant to the State Planning Rules.

Once approved by the SPC, the Executive Director will distribute to Staff and post on the OSG website.